## BEFORE THE BOARD OF REALTY REGULATION DEPARTMENT OF LABOR AND INDUSTRY STATE OF MONTANA

In the matter of the amendment	) NOTICE OF AMENDMENT
of ARM 24.210.641 unprofessional	)
conduct	)

TO: All Concerned Persons

- 1. On February 28, 2008, the Board of Realty Regulation (board) published MAR Notice No. 24-210-31 regarding the proposed amendment of the above-stated rule, at page 366 of the 2008 Montana Administrative Register, issue no. 4.
- 2. The board has thoroughly considered the comments received. A summary of the comments received and the board's responses are as follows:

<u>COMMENT 1</u>: Two comments suggested a grammatical correction in the first line of ARM 24.210.641(5)(z) to retain the word "with" instead of replacing it with "to."

<u>RESPONSE 1</u>: Following discussion, the board finds no substantive difference between the two words and is amending the rule exactly as proposed.

<u>COMMENT 2</u>: One commenter suggested there may be confusion concerning the phrase "payment to a principal." The commenter stated that by definition, there are two principals to each transaction but using "the" in the sentence raises the question whether the commission can be reduced only to the principal with whom the specific agent is working.

<u>RESPONSE 2</u>: The board concluded that any principal could receive a payment and is amending the rule to clarify the board's intent.

<u>COMMENT 3</u>: A comment supported any amendment reversing the 2007 amendment and allowing for consumer choice.

RESPONSE 3: The board acknowledges the comment.

- 3. The board has amended ARM 24.210.641 with the following changes, stricken matter interlined, new matter underlined:
- <u>24.210.641 UNPROFESSIONAL CONDUCT</u> (1) through (5)(y) remain as proposed.
- (z) paying a commission in connection to a real estate sale or transaction to a person who is not licensed as a real estate broker or real estate salesperson under this chapter; however, payment to the principal any principals or reducing the commission owed by the principal any principals is not considered payment of a commission to an unlicensed person;

(aa) through (6) remain as proposed.

BOARD OF REALTY REGULATION MARILYN FLOBERG, CHAIRPERSON

/s/ DARCEE L. MOE

Darcee L. Moe

Alternate Rule Reviewer

/s/ KEITH KELLY

Keith Kelly, Commissioner

DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State April 14, 2008